

**To:** Allnutt, David[Allnutt.David@epa.gov]; Bogoshian, Matthew[Bogoshian.Matt@epa.gov]; Brown, Samuel[BROWN.SAMUEL@EPA.GOV]; Chester, Steven[Chester.Steven@epa.gov]; Cozad, David[Cozad.David@epa.gov]; Dierker, Carl[Dierker.Carl@epa.gov]; Dolph, Becky[Dolph.Becky@epa.gov]; Field, Stephen[Field.Stephen@epa.gov]; Frankenthaler, Douglas[Frankenthaler.Douglas@epa.gov]; Frey, Bert[frey.bertram@epa.gov]; Gable, Kelly[Gable.Kelly@epa.gov]; Giles-AA, Cynthia[Giles-AA.Cynthia@epa.gov]; Harrison, Ben[Harrison.Ben@epa.gov]; Helwig, Amanda[Helwig.Amanda@epa.gov]; Isales, Lydia[Isales.Lydia@epa.gov]; Jackson, Brooke-Sidney[Jackson.Brooke-Sidney@epa.gov]; Kaplan, Robert[kaplan.robert@epa.gov]; Mackey, Cyndy[Mackey.Cyndy@epa.gov]; Michaud, John[Michaud.John@epa.gov]; Morgan, Jeanette[Morgan.Jeanette@epa.gov]; Moyer, Robert[Moyer.Robert@epa.gov]; Mulkey, Marcia[Mulkey.Marcia@epa.gov]; Muller, Sheldon[Muller.Sheldon@epa.gov]; Murray, Suzanne[Murray.Suzanne@epa.gov]; Nalven, Heidi[Nalven.Heidi@epa.gov]; Rodrigues, Cecil[rodrigues.cecil@epa.gov]; Ryan, Mark[Ryan.Mark@epa.gov]; Schaaf, Eric[Schaaf.Eric@epa.gov]; Shapiro, Mike[Shapiro.Mike@epa.gov]; Shepherdson, Melanie[Shepherdson.Melanie@epa.gov]; Siegal, Tod[Siegal.Tod@epa.gov]; Silver, Meg[Silver.Meg@epa.gov]; Starfield, Lawrence[Starfield.Lawrence@epa.gov]; Stern, Allyn[Stern.Alyn@epa.gov]; Theis, Joseph[Theis.Joseph@epa.gov]; Wade, Alexis[Wade.Alexis@epa.gov]; Walker, Mike[Walker.Mike@epa.gov]; Ward, W. Robert[Ward.Robert@epa.gov]; Yager, Scott[Yager.Scott@epa.gov]; OGC WLO[OGC\_WLO@epa.gov]; Conger, Nick[Conger.Nick@epa.gov]; Schramm, Daniel[Schramm.Daniel@epa.gov]

**From:** Turley, Jennifer

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**for March 14, 2014**

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## *Drilling*

### **Groups Warn of California Earthquake Risk**

Three environmental groups warned March 13 that a possible surge in shale oil development using hydraulic fracturing in California could lead to more use of wastewater injection wells, which could increase the risk of induced earthquakes....

## *Drilling*

### **Wyoming High Court Says State Has Burden To Justify Nondisclosure of Fracking Fluids**

The Wyoming Supreme Court said the state has the burden of justifying the use of a trade secrets exemption to preclude the disclosure of chemical compounds used in hydraulic fracturing (Powder River Basin Resource Council v. Wyo. Oil and Gas...

## *Endangered Species*

### **Groups Sue NOAA Fisheries Over Biological Opinion for Water Diversions at Stanford**

Two environmental advocacy groups filed suit in a California federal court alleging that NOAA Fisheries Service improperly issued a biological opinion that led to a Clean Water Act permit related to the upgrade of two water diversion facilities...

## *Endangered Species*

### **Ninth Circuit Upholds Wildlife Service Opinion On Threat of Water Projects to Delta Smelt**

The U.S. Court of Appeals for the Ninth Circuit on March 13 upheld a 2008 biological opinion by the U.S. Fish and Wildlife Service that concluded that federal water pumping projects jeopardized the continued existence of the delta smelt and...

## *Hazardous Waste*

### **Kodak Settles With U.S. Over Cleanup Of Business Site, River in Rochester, N.Y.**

Eastman Kodak Co. agreed to commit \$49 million to a trust to pay for the cleanup of its Eastman Business Park site and the Genesee River in the area of Rochester, N.Y., federal prosecutors said (In re Eastman Kodak Co., Bankr. S.D.N.Y., No. 12-10202,...

### ***Mining***

### **Hastings Asks Interior OIG to Release Unredacted Report on Stream Protection Rule**

The chairman of the House Natural Resources Committee called on the Interior Department to turn over certain unredacted documents related to a stream protection rulemaking by March 17 or face a subpoena....

### ***Water Pollution***

### **Agriculture Committee Approves Bill to Ban NPDES Permits for Pesticide Application**

Farmers, ranchers, forest managers and pesticide applicators would no longer be required to obtain Clean Water Act discharge permits for pesticide spraying near and over water under legislation approved March 13 on a voice vote by the House...

### ***Water Pollution***

### **Coal Ash Information Provided by Duke Energy Called Inadequate by N.C. Official**

Information provided so far by Duke Energy related to its ash spill cleanup efforts and future plans for storing such waste is "inadequate," the head of the North Carolina Department of Environment and Natural Resources (DENR) said...

### ***Water Pollution***

### **U.S. Lifts Ban Against BP Contracting That Was Imposed After Gulf Oil Spill**

U.S. officials lifted a ban on government contracting imposed on BP Plc in response to the 2010 oil spill in the Gulf of Mexico that fouled beaches from Florida to Louisiana....

### *Water Pollution*

#### **West Virginia Company Responsible for Spill Submits First Phase of Tank Removal Plan**

Freedom Industries, the company responsible for the chemical spill that fouled drinking water supplies for 300,000 West Virginians, has submitted the first phase of its above-ground storage tank decommission plan to the state....

### *Water Resources*

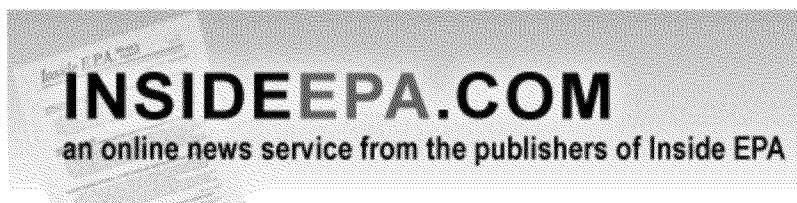
#### **British Columbia Supports Maintaining Columbia River Treaty, Seeks Improvements**

The British Columbia government has made a final decision to continue its participation in the Columbia River Treaty with the United States, but also to seek improvements through the treaty's existing framework, provincial Energy and...

### *Water Resources*

#### **House Votes to Bar Use of Agency Permitting To Obtain Water Rights on Federal Lands**

The House passed the Water Rights Protection Act (H.R. 3189) March 13 to prohibit the Interior Department and the Agriculture Department from wresting water rights away from rights holders using federal lands....



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## **Latest Blogs**

# **Court Limits 404 Permit Review On Health Impacts**

A federal appeals court says the Army Corps of Engineers properly limited its review of health impacts from a Clean Water Act (CWA) dredge-and-fill permit .



## **ENDANGERED SPECIES:**

# **Judges uphold federal protection for fish in dispute over Calif. water management**

Jeremy P. Jacobs, E&E reporter

Published: Thursday, March 13, 2014

Federal appellate judges today upheld the Fish and Wildlife Service's finding that a California water project imperils an endangered fish, in a ruling that judges acknowledge would have "enormous practical implications" for the state's water management.

The San Francisco-based 9th U.S. Circuit Court of Appeals reversed a lower-court ruling that invalidated the Fish and Wildlife Service's biological opinion on the delta

smelt, which concludes that the Central Valley Project and State Water Project pose a threat to the tiny fish.

Together, the two projects serve 200,000 water customers in Central and Southern California, including the country's most diverse agricultural region.

In 2008, the Bureau of Reclamation asked the Fish and Wildlife Service to analyze the effects on the smelt of the projects, which move water from Northern to Southern California through a complex system of pumps, dams and reservoirs.

The resulting biological opinion -- the most complex ever issued -- concluded that the project threatens the 2- to 3-inch fish, whose population has plummeted to the point of near extinction. Fish and Wildlife recommended alternatives to protect the smelt, including reducing water exported to Southern California. The bureau and state authorities indicated they would comply with the recommendations in accordance with the Endangered Species Act.

Water districts, contractors and agricultural consumers quickly filed several lawsuits, which were consolidated into challenges to the biological opinion, as well as Interior and other state and government agencies. A district court threw out the biological opinion, holding that it relied on faulty science.

The 9th Circuit, however, largely reversed that decision, while acknowledging the "enormous practical implications" of its ruling.

"We are acutely aware of the consequences of this proceeding," Judge Jay Bybee wrote. "As a court, however, we are limited in our review of matters within the expertise of the agency."

Bybee spent considerable time explaining that the court is bound by the law and court precedents, which justify the government's actions even if the effects seem unfair.

"The law prohibits us" from making utilitarian judgments "to balance the smelt's interest against the interests of the citizens of California," Bybee wrote.

Delta smelt are endemic to the San Francisco Bay-Delta region. They were listed as threatened in 1993 and endangered in 2010. The Fish and Wildlife Service said pumping activities have harmed the species, as well as increased saltwater intrusion into the ecosystem.

Conservationists also say the fish is particularly vulnerable to deteriorating environmental conditions.

[Click here](#) for the opinion.

## OFFSHORE WIND:

# Interior begins NEPA review for Va. test turbines

Phil Taylor, E&E reporter

Published: Thursday, March 13, 2014

The Interior Department today said it has begun an environmental assessment of a proposed 12-megawatt offshore wind test facility off the coast of Virginia Beach, Va.

The Bureau of Ocean Energy Management is evaluating Dominion Resources Inc.'s plan to build two 6 MW turbines about 25 miles from shore.

The project will inform Dominion's development of an adjacent federal offshore wind lease that it purchased last September for \$1.6 million in the nation's second-ever competitive auction ([\*E&ENews PM\*](#), Sept. 4, 2013). It aims to validate emerging offshore wind technologies, reduce costs and remove market barriers inhibiting wind farms.

"The type of data that would be collected under this research lease is especially important to understanding the wind potential, weather and other conditions relevant to standing up wind power generation offshore Virginia," BOEM Director Tommy Beaudreau said in December.

The environmental assessment will consider "reasonably foreseeable environmental consequences" of the project, including construction, operation, and maintenance and decommissioning of the turbines and underground cables -- as well as noise, sea-bottom disturbance and vessel traffic, BOEM said.

The agency is taking public comments through April 14.

The Virginia Offshore Wind Technology Advancement Project (VOWTAP) would be constructed, owned and operated by Dominion, but the research lease would be held by the Virginia Department of Mines, Minerals and Energy. The turbines would be built by French manufacturer Alstom SA.

"The purpose of the VOWTAP is to respond to the expressed need for the advancement of offshore wind energy research and development in the United States and in Virginia," partners said in their [Research Activities Plan](#) submitted to BOEM.

The grid-connected project would test "twisted jacket" turbine foundations that offer the strength of traditional foundations but use substantially less steel.

BOEM said Virginia has secured Army Corps of Engineers permits and met Coast Guard requirements for early work on the site and has begun wildlife, archaeology, geophysical and geological surveys.

The partnership was one of seven selected by the Energy Department in December 2012 to be eligible to receive up to \$168 million over the next six years for demonstration projects aimed at advancing the offshore wind industry ([\*E&ENews PM\*](#), Dec. 12, 2012).

Each project was awarded \$4 million to complete its planning and evaluation phases.

Dominion has emerged as a potential major player in Atlantic offshore wind development. Less than a month ago, the company said it applied to BOEM to bid on an 80,000-acre federal wind lease off Maryland. That auction is expected to occur this year.

"Offshore wind shows the most promise for building utility-sized renewable energy projects in the Mid-Atlantic region," Mary Doswell, senior vice president for Dominion's Alternative Energy Solutions unit, said in a Feb. 18 statement. "The bureau's wind energy areas offer both the consistent winds and the acreage to develop these large-scale projects. Given the proximity to our leased area off of Virginia and the excellent port in Hampton Roads, there should be economies of scale that could benefit both regions."

While no offshore wind turbines have been installed in the United States, at least two projects -- the 30 MW Block Island project in Rhode Island and the 468 MW Cape Wind facility planned for offshore Massachusetts -- claim to have qualified for a lucrative investment tax credit that could greatly offset the cost.

Offshore wind development has occurred almost exclusively in Europe, where more than 50 projects and thousands of megawatts have been installed in the past decade, according to the Department of Energy. The United States could see up to 54,000 MW of projects in the Atlantic Ocean by 2030, DOE said.

## **OIL AND GAS:**

# **Exxon Mobil stumbles on massive**



# dinosaur fossils while exploring shale play

Published: Thursday, March 13, 2014

An Exxon Mobil Corp. gas project in western Argentina is on pause after workers found more fossils than fuel.

While digging through an oil- and gas-rich area called the Vaca Muerta Shale, road construction crews uncovered the bones of a herd of titanosaurs -- giant, herbivorous sauropods.

Paleontologists are now busy identifying hip, neck and thigh bones. They also found a rare skull of a theropod, a carnivore that walked on two legs.

The sauropods were some of the largest creatures on Earth and belong to the late Cretaceous Period dating about 66 million to 100 million years ago.

"Exxon Mobil has diverted our operations to ensure the integrity of the dig site and has funded the first phase of paleontological work," said Thomas Hess, a company spokesman in Argentina.

The company said the findings will be presented at a paleontological symposium in May, while researchers plan on expanding their excavation region (Simone Sebastian, *Fuel Fix*, March 13). -- JL

## CALIFORNIA:

# Water needs face \$2-3B annual funding shortfall -- study

Anne C. Mulkern, E&E reporter

Published: Thursday, March 13, 2014

The cost of meeting California's water needs exceeds available funding by \$2 billion to \$3 billion annually, a report released yesterday said.

The lack of money prevents the state from providing safe drinking water in small, poor rural communities and hampers adequate flood protection, stormwater management, ecosystem support for endangered species and integrated water oversight, according to the analysis from the Public Policy Institute of California (PPIC).

Water agencies in California spend roughly \$30 billion annually -- about \$2,350 per household -- on those demands. The amount actually needed is 7 to 10 percent more, the report says.

Climate change, population growth and regulations requiring cleaner water are likely to raise costs in the coming decades, it says. PPIC analysts argue that California law needs revision to be ready.

"To fill the existing funding gaps, and to prevent new ones from forming, California will have to better align its funding laws with the goals of modern water management," the analysis says. "The legislature will need to pass new special taxes and regulatory fees to tap a broader mix of funding sources."

California voters would also need "to approve a suite of constitutional reforms to address the unintended consequences" of earlier successful state ballot measures. Proposition 13 -- passed in 1978 -- caps property taxes, and Proposition 218 -- approved in 1996 -- requires a two-thirds vote for new taxes and certain fees. Both amended the state's constitution.

Those initiatives make it difficult for state and local governments to collect new taxes to support water and for local water agencies to raise funds from local ratepayers, the report says.

Achieving the recommended report changes is not as unlikely as it might sound, said report co-author Ellen Hanak, a PPIC senior fellow and an economist.

"There's a lot of interest right now in fixing our water system," Hanak said. "If anything, the drought has just highlighted the importance of having a well-performing water system, so there's a lot of interest in Sacramento both in the Legislature and in the administration in fixing it.

"We're saying [an] essential part of fixing it is getting the funding system fixed," she added.

A spokesman for the California Department of Water Resources declined to comment yesterday because he had not seen the report, which was released to the public last night. *Greenwire* was allowed an early look at the analysis.

PPIC examined the Golden State's water funding outlook because, Hanak said, at a time of a historic drought, there wasn't really a clear picture of how much it really costs to meet water needs.

California has a complex system, she said, where multiple local agencies, the state and the federal government all have responsibility for delivering supplies.

"We wanted to look at what the options were for fixing the parts that were broken," she said.

## **Bonds not the sole answer, report says**

Some parts of the state's water matrix are functioning well, like agencies in Southern California and San Francisco that made investments to be ready for drought and have adequate supplies, Hanak said.

But other aspects are problematic, she said. In rural communities, there are 80,000 to 160,000 people without access to safe drinking water. And there's insufficient funding for stormwater pollution control. Local governments are given responsibility to clean stormwater because it carries toxins lifted from the ground and can pollute bays and oceans. But it's "almost impossible to raise the money" to do the job, Hanak said.

While water funding has been cast largely as a state government problem, PPIC said, "California's water system has nearly always relied primarily on funding by local residents, farmers and nonfarm businesses, who pay for these services through their water and sewer bills and a variety of other local fees and taxes."

Six water bonds passed in the 2000s also have played a role. About 80 percent of authorized funds from the bonds have gone toward drinking-water quality, managing and expanding water available, pollution prevention, flood protection, ecosystem management and regional integration of water management activities.

The money available from those bonds runs out in two to three years, Hanak said. There have been failed attempts to put a new water bond on the state's ballot, she said.

One has qualified for November's election. That measure seeks \$11.14 million for water supplies and reliability. Part also would go toward Democratic Gov. Jerry Brown's plan to build two 30-mile tunnels beneath the Sacramento-San Joaquin River Delta. That system supplies 25 million Californians and 3 million acres of farmland with water.

Even if a new bond measure passes, Hanak said, at best it would fill half of the funding gap. The Legislature shouldn't focus solely on bonds, she said.

Other options include surcharges on water bills, Hanak said. If those are fees to pay for

specific harm, they could be approved by a majority vote, she said. If they are more general, they would require two-thirds approval for passage.

The Legislature could also give guidance to the courts on interpreting Proposition 218, she said. In addition to mandating two-thirds approval of property owners for new taxes, the measure barred public agencies from imposing taxes or fees exceeding the "cost of service" to an individual.

An Orange County Superior Court last year interpreted that measure as prohibiting agencies from charging customers for a part of water service if that component is not physically available to the ratepayer. In the *Capistrano Taxpayers Association v. City of San Juan Capistrano* case, the plaintiffs said that a fee imposed for a recycled water project violated Proposition 218 because the recycled water did not go to everyone's homes.

There needs to be a more holistic look, she said, because while the recycled water didn't reach every home, the project made the entire system more reliable.

## **MINNESOTA:**

# **Agency delays sulfate standard decision for state's lakes, rivers**

Published: Thursday, March 13, 2014

Minnesota's Pollution Control Agency has postponed a key decision on sulfate pollution in the state's lakes and rivers, saying the agency needs more time to study the issue.

The agency had previously planned to release a recommendation in late February.

The agency is weighing whether to develop a sulfate standard to protect water quality and ensure the viability of the wild rice crop. Sulfate, a type of salt discharged by mines, could harm water quality, and the dispute has pitted agriculture interests against mine operators in Minnesota. Any eventual state standard would have to be approved by U.S. EPA.

Reviews so far have found that wild rice can handle higher sulfate levels depending on how much iron exists in the crops' sediment. Sulfate can then break down into sulfide,

which limits plant growth.

"There are many questions and considerations yet to be discussed about protecting the health of our state's wild rice," Pollution Control Agency Commissioner John Linc Stine said (Tony Kennedy, [Minneapolis Star Tribune](#), March 12). -- **SP**

## **NIGERIA:**

# **Oil spills, water contamination stir unrest in Niger Delta**

Published: Thursday, March 13, 2014

Oil spills and pollutant discharges are ruining waters in the Niger Delta as local unrest, sabotage and disagreements over royalty payments slow the response to contamination that has built up over the years in one of Africa's most populous and oil-rich regions.

Roughly 240,000 barrels of crude oil leak into the Niger Delta each year -- about the same amount of crude that spilled from the Exxon Valdez tanker in Alaska in 1989. Heavy metals cadmium, lead, chromium and nickel have been found in the water at levels exceeding U.S. EPA's maximum contaminant levels, and concentrations of the carcinogen benzene have been found to exceed World Health Organization recommendations.

More than 5,200 oil wells populate the delta, about 80 percent of which are owned by Royal Dutch Shell PLC. The state-owned Nigerian National Petroleum Corp. runs joint ventures with most foreign oil companies in the delta, pumping more than 90 percent of the country's oil and generating close to four-fifths of the state's revenue.

But the decades of development have sparked local ethnic clashes over oil royalties. Local militants have raided and sabotaged pipelines for oil. Shell estimates that sabotage and theft account for 80 percent of leaks from its Nigeria facilities, up from 50 percent in 2008.

Communities also have complained of not receiving compensation for spills and contamination that have ruined drinking water and agriculture. Some communities have blocked cleanup crews, demanding compensation first (Dulue Mbachu, [Bloomberg](#), March 13). -- **HG**

## **1. ADAPTATION: Recovery is still a dream for the central Philippines 5 months after record typhoon**

While many wait for help in rehabilitating their livelihood or try to launch tiny businesses after Typhoon Haiyan devastated the central Philippines five months ago, the available employment for many former fishermen and farmers is in construction as residents and businesses continue to repair and rebuild structures on the same places where they were flattened by the storm.

## **2. RISK: Obama will sign discounted flood insurance bill after it sailed through the Senate**

President Obama plans to sign legislation passed by the Senate yesterday that reverses rate hikes for homeowners with discounted federal flood insurance. The assurances by the White House comes six weeks after the administration warned that preserving the subsidies could increase the government's financial exposure to rising flood risks.

# **TODAY'S STORIES**

## **3. POLITICS: Senate panel sees clash over climate science and public cost of Keystone XL**

## **4. POLICY: Kerry says national security must be broadened to include climate change risks**

## **5. PUBLIC OPINION: Environmental concerns reach record low among Americans -- Gallup**

## **6. DEFENSE: Climate change poses a busy, difficult future for U.S. military**

7. TECHNOLOGY: Bigger, more efficient wind turbines boost industry capacity

8. RESEARCH: Scientists present cheaper way to turn natural gas into other fuels

9. RENEWABLE ENERGY: Cape Wind touts U.S.-based labor with new cable contracts

9. STATES: Va. and France pledge climate cooperation

10. ELECTRICITY: This year's harsh winter means steep rises in heat costs

10. REGULATION: 'Rebound' effect could dampen benefits of GHG standards -- study

11. CARBON TRADING: E.U. climate plan includes only domestic carbon cuts

12. CARBON MARKETS: Russia contemplates domestic carbon market amid global warming fight

13. CLEAN ENERGY: Major solar power project at N.C. airport canceled

**EnergyWire -- Fri., March 14, 2014 -- [Read the full edition](#)**

1. OIL EXPORTS: Some refiners push back against sending more crude overseas

Amid calls to free up crude oil exports from the United States, debate is brewing among the refining industry over whether to support or oppose the proposal.

## TOP STORIES

2. GRID: FERC's confidential threat analysis triggers political reaction

3. NATURAL GAS: East Harlem blast not yet connected to leaking gas main -- NTSB

4. OFFSHORE DRILLING: EPA agreement allows BP to again enter federal lease sales

## THIS MORNING'S STORIES

5. GAS EXPORTS: Ukraine LNG deal could hurt administration's trade goals

6. EARTHQUAKES: Calif. not ready for seismic risks of drilling, green groups charge

7. CLIMATE: Paper questions EPA's reading of methane emissions from oil wells

8. BAKKEN SHALE: Weather continues to hamper North Dakota's oil production

9. OIL: Court allows development to continue in Alaska petroleum reserve

10. TRANSMISSION: N.H. Senate sets aside bill to bury Northern Pass power cable

11. ELECTRICITY: Comcast adds retail power to its bundle in Pa.

12. OIL AND GAS: U.S. onshore projects face deep cuts as Shell continues restructuring



13. AIR QUALITY: Bill on tougher air standards founders in Utah Senate

14. HYDRAULIC FRACTURING: Homeowners launch \$25M fracking lawsuit in Texas town

15. PIPELINES: Crude line would track N.Y. highway to N.J.

16. PIPELINES: E.U. tries to punish Russia by stopping natural gas projects

17. WIND: Okla. bill would halt projects in eastern half of state

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